



Negotiating EU trade agreements

Who does what and
how we reach a final deal



1. Who does what?

European Commission

(The EU executive, or 'civil service')



'the Commission'

Prepares, negotiates, proposes the EU's international trade agreements

Council of the EU

(EU national governments)



'the Council'

Decides jointly with the European Parliament whether to approve EU trade agreements

European Parliament

(Publicly-elected MEPs)



'the Parliament'

Decides jointly with the Council of the EU whether to approve EU trade agreements

2. How we reach a final deal

In a nutshell

Reaching a final agreement usually takes several years.
It involves over 30 stages. These include:

Preparing

Analysing a deal's likely impact
Consulting the public
Setting out areas to negotiate
Getting Council authorisation

Decision-making

Council and Parliament jointly
deciding whether to approve

Negotiating

Holding trade talks
Reporting to the Council, Parliament
Publishing texts online

Full or provisional application

Depending on whether responsibility for the
deal's content lies solely with EU institutions
or jointly with EU states

Finalising

Signing the negotiated text
Legal review and formatting

For 'mixed' agreements only

Ratifying in EU countries,
using their own procedures

Signing

Translating the text
Checking by Commission departments
Formally asking for EU signature

Conclusion

Signing by partner country(ies) Publishing
in the EU's Official Journal

Entry into force

In detail

Preparing

1. The Commission starts:
 - an assessment of the likely impact of an agreement
 - a public consultation on what the agreement should achieve
 - an informal scoping exercise, which sets out what both parties wish to negotiate
2. The Commission makes a recommendation to the Council to open negotiations. The Commission may also propose draft negotiating directives.

The Commission then informs the Parliament.

The Commission also:

- immediately publishes its negotiating directives online
- automatically sends the directives to:
 - the Council
 - the Parliament, and
 - EU national parliaments

3. The Council adopts a decision authorising the Commission to open negotiations. This decision can also include non-binding negotiating directives to the Commission.
4. The EU's Chief Negotiator in the Commission's Directorate-General for Trade (DG Trade) puts together a negotiating team. It includes experts from across the Commission in the topics being negotiated.



Negotiating

5. Chief Negotiators from both sides set up negotiating rounds. These may cover everything being negotiated, or only certain areas.
6. After each negotiation round and at other key points in the negotiations, the Commission reports to both the Council and the European Parliament.

When the Commission plans to table negotiating proposals with its counterparts, it:

- consults the Council on them
- informs the European Parliament about them

7. The Commission publishes online (at ec.europa.eu/trade):
 - a report of each negotiating round
 - its initial negotiating proposals.
8. The Commission consults the Council's Trade Policy Committee (TPC), which assists the Commission in its negotiating tasks.

The Commission also informs the European Parliament at every stage of the talks about the latest developments.

9. The Council regularly discusses the trade negotiations in its trade committee (the TPC).

The Parliament does the same in its International Trade Committee (known as 'INTA'). It may also make resolutions about the trade negotiations based on these discussions. (Resolutions are positions which the committee takes on how the talks should proceed).

Civil society met the European Commission's trade department 23 times in 2017

National government ministers or the whole European Parliament may also discuss the negotiations throughout the process.

10. When negotiators from the two sides come close to finalising the text of the agreement, the Commission tells the Parliament and the Council.

The Commission also informally sends final texts to:

- EU Member States through the Council
- the Parliament

The Commission publishes online the texts as they stand at the end of the negotiations, at ec.europa.eu/trade.

Finalising

11. Commission lawyers, together with the Council's lawyer-linguists, review, and where necessary correct, the text of the agreement (in the jargon this is called 'legal scrubbing'). Doing so ensures that the agreement:

- uses clear terms consistently throughout the text (consistency)
- offers 'legal certainty', meaning that:
 - the agreement is detailed and clear enough so that both sides understand it in the same way
 - when someone reads it, they know what it means.

12. The chief negotiators of both parties usually initial the text of the proposed agreement to mark the end of the negotiations.

13. The Commission sends the Council and Parliament the text of the agreement. Lawyer-linguists from the Council format the text so it's 'ready for signature'.

14. The Council sends the newly-formatted text back to the Commission.

The text is generally, but not always, negotiated in English. It must be available in all 23 official languages of the EU. The Commission translates the text.

Signing

15. The Commission drafts the proposals for Council decisions on the:

- signature
- provisional application
- conclusion

of the agreement.

16. The Commission translates these proposals into all EU languages.

17. The Commission's trade department (DG Trade) sends the proposals around to other Commission departments (a process known as 'inter-service consultation') for their review and comments.

18. The 28 Commissioners adopt the proposals.

19. The Commission proposes to the Council the:

- signature
- provisional application
- conclusion

of the agreement.

The Commission generally proposes that a part of the agreement is provisionally applied, but provisional application of the whole deal is possible.

It attaches all language versions of the agreement to its proposal.



The European Parliament's Committee for International Trade (INTA) has been chaired by Bernd Lange (S&D) since 2009

Decision-making - Council and Parliament

20. The Council receives the Commission's proposals and takes a decision to sign.

After this decision, the Commission immediately proceeds with signing the agreement.

21. The two negotiating sides formally sign the agreement. The Council usually appoints the person who will sign on behalf of the EU. This is often a government minister of the country currently holding the Council presidency, or the EU Trade Commissioner.

22. If the Council agrees to provisionally apply the agreement, the EU can notify the depositaries of the agreement that it is provisionally applying the agreement, either fully or in part.

In practice the EU only informs the depository once the Parliament has given its consent to the agreement (stage 23).

23. After both sides sign, the Council examines the proposal for conclusion and sends the agreement to the Parliament for its consent (approval). This is known as a 'saisine.'

24. The Parliament receives the agreement.

The Parliament and its trade committee ('INTA') consult with representatives of industry, trade unions, environmental groups and other outside experts about the agreement.

The committee:

- writes up a report on the agreement
- votes on it.

The report serves as formal advice for the whole Parliament (the 'plenary').

25. The whole Parliament votes on whether to give its consent to the agreement. This is a 'Yes/No' vote.

Full or provisional application

Some EU trade agreements are 'EU-only'. All the policy areas they cover fall under the sole responsibility of the EU institutions.

Other agreements are 'mixed'. They have parts which are the shared responsibility of:

- the EU institutions and
- individual EU countries

26. If the Parliament gives its consent:

A. For 'EU-only' agreements, the EU can notify its consent to the depository, and the agreement will apply in full ('enter into force') once the other party notifies its ratification.

B. For 'mixed' agreements, the EU now requires the ratification of all EU member states.

In the meantime the EU can only apply the agreement provisionally – in full, or in part.



European Commission President Jean-Claude Juncker, Canadian Prime Minister Justin Trudeau, and European Council President Donald Tusk sign the CETA agreement in Brussels, September 2016

For 'mixed' agreements only - ratifying in EU countries

27. EU Member State governments, as well as the Council, also sign the agreement.
28. EU member states vote whether to approve ('ratify') the agreement. They do so by following their own national procedures. These usually involve votes by national, and sometimes regional, parliaments.
29. After all EU member countries ratify a 'mixed' agreement, the EU applies the agreement in full.

Conclusion

30. At some point after the partner country (or countries) signs the agreement (Stage 19), it goes on to ratify it.
31. EU Member States and the partner country notify the depositaries of the agreement – the formal keepers of the final, signed texts. On the EU side this is the Secretariat-General of the Council.

The Council adopts the decision to approve the agreement.

32. The Council publishes its decision to approve the agreement in the Official Journal of the EU.

Entry into force

33. Once both parties ratify the agreement and tell the depositaries that they have done so, the agreement fully enters into force.



DISCLAIMER

This is not a legal act. The information in the brochure is of a general nature only and is not intended to address the specific circumstances of any particular negotiation. It is not intended to provide comprehensive, complete, fully accurate or up-to-date information.